IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 25TH JANUARY 2007 / 5TH MAGHA 1928

Tr.P(Crl.).No. 73 of 2004(D)

MC.227/2004 of FAMILY COURT, MALAPPURAM

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PETITIONER: RESPONDENTS:

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1. V.C. SIVANANDAN, S/O. CHELLAPPADAS,
   C/O. BABUJI, SITARAM QUARTERS,
   HOUSE NO.79, PULLAZHI P.O, TRISSUR.

2. V.C. VENKATTARAMAN, S/O. CHELLAPPADAS,
   HOUSE NO.97, SITARAM QUARTERS,
   PULLAZHI P.O., TRISSUR.

3. V.C. BABUJI, S/O. CHELLAPPADAS,
   HOUSE NO.79, PULLAZHI P.O., TRISSUR.

4. V.C. JAYALAKSHMI, W/O. T.P.RAMAKRISHNAN
   CHOKKADU P.O., KALIKAVU AMSOM, NILAMBUR.

BY ADV. SMT.K.V.RESHMI

RESPONDENTS: PETITIONER/STATE:

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1. CHELLAPPADAS, KOKKALAMADATHIL,
   KALIKAVU AMSOM, THRIKKUNNASSERY DESOM,
   PULLANCODE P.O., NILAMBUR.

2. THE STATE OF KERALA, REP. BY
   PUBLIC PROSECUTOR, HIGH COURT OF KERALA.

BY PUBLIC PROSECUTOR SMT.LATHA

THIS TRANSFER PETITION (CRIMINAL) HAVING BEEN FINALLY HEARD ON 25/01/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Tr.P.Crl.No.73 of 2004

Dated this the 25th day of January 2007

O R D E R

Against the petitioners, the respondent, their father has filed a petition under Section 125 Cr.P.C. That petition has been filed before the Family Court, Manjeri within the jurisdiction of which the respondent now resides. The petitioners are residents within the jurisdiction of the Family Court at Thrissur. They have come to this court with this transfer petition to contend that the court having jurisdiction is not the Family Court, Manjeri but the Family Court, Thrissur within the jurisdiction of which three of the four counter petitioners reside.

2. There is no appearance for the respondent. The contention calls for consideration of Section 126 Cr.P.C. That provision was specifically considered in identical context by the Supreme Court in Vijayakumar Prasad v. State of Bihar [2004(2) KLT 435 (SC). It has been held categorically that unlike in the case of a claim by the wife and child, the claim of the parent can be entertained only by that court within the jurisdiction of which the one against whom the claim is made is or resides. If that be

so, undoubtedly claim before the Family Court, Manjeri is not justified.

3. The petitioners have one more reason to urge. They submit that their mother and a disabled brother have filed a claim petition before the Family Court Thrissur and the same is pending as M.C.No.117/04 before the Family Court. The trial of the case has not commenced, it is submitted by the learned counsel for the petitioner. Shifting the venue to the Family Court, Thrissur is not likely to cause any inconvenience to the claimant/respondent in as much as he is already there before that court defending a claim made against them.

4. As stated earlier, no objection is raised by the respondent. I am satisfied in the circumstances that transfer can be directed, as prayed for.

5. In the result, this transfer petition is allowed. M.C.No.227/04 pending before the Family Court, Manjeri is transferred to the Family Court, Thrissur. The learned Judge of the Family Court shall forward the records and shall direct the parties to appear before the Family Court, Thrissur on 01/03/2007 to continue the proceedings.

(R.BASANT, JUDGE)

jsr

R.BASANT, J

C.R.R.P.No.

ORDER

21ST DAY OF JULY 2006